

1 BEFORE THE
2 POLLUTION CONTROL HEARINGS BOARD
3 STATE OF WASHINGTON

3 IN THE MATTER OF)
4 GIBBONS AND REED COMPANY,)
5 Appellant,)
6 vs.)
7 SOUTHWEST AIR POLLUTION)
8 CONTROL AUTHORITY,)
9 Respondent.)
10 _____)

PCHB No. 227

REPORT ON FORMAL HEARING
AND ORDER

10 This matter, the appeal of a twenty-five dollar civil penalty for
11 an alleged open burning violation of respondent's Regulation I, came
12 before the Pollution Control Hearings Board (Walt Woodward, hearing
13 officer) as a formal hearing in the Longview Library, Longview, at
14 2:15 p.m., December 21, 1972.

15 Appellant was represented by its Northwest District Manager,
16 Robert E. Westermann. Respondent appeared through its counsel, James
17 D. Ladley. Several members of the staff of the State Department of
18 Natural Resources also were present; speaking for them was Jack Shero,

1 Area Manager. Thomas E. Archer, Kelso court reporter, recorded the
2 proceedings.

3 At the outset, respondent offered to suspend the instant civil
4 penalty if appellant would agree to the terms of an Order served on
5 appellant under date of November 22, 1972 by Edward K. Taylor, Executive
6 Director of Southwest Air Pollution Control Authority. At the suggestion
7 of the hearing officer and with concurrence of Mr. Westermann, a copy of
8 Mr. Taylor's letter was marked 'Respondent's Exhibit No. 1 and was made
9 a part of the file in this matter.

10 In response to Mr. Ladley's offer, Mr. Westermann said appellant
11 would not burn scrap lumber without first obtaining a permit from the
12 appropriate government agency.

13 Mr. Ladley found this response acceptable to respondent and moved
14 that the instant penalty be suspended.

15 The hearing officer noted that this matter marked yet another case
16 where the Southwest Air Pollution Control Authority and the State
17 Department of Natural Resources appeared to be in conflict in the control
18 of outdoor burning. He said the conflict was causing public bewilderment
19 and confusion and he expressed a desire for resolution of the conflict.
20 Mr. Ladley said it was respondent's intention to involve the State
21 Department of Natural Resources as a litigant in this or in a similar
22 case in the future. At this point, Mr. Shero made a brief statement in
23 which he invited Southwest Air Pollution Control Authority to cite the
24 State Department of Natural Resources as a litigant in this or a similar
25 case in the future.

26 This concluded the hearing and the Pollution Control Hearings Board

27 REPORT ON FORMAL
HEARIND AND ORDER

1 issues this

2 ORDER

3 The twenty-five dollar civil penalty incurred by appellant in the
4 alleged violation by appellant on November 17, 1972 of Section 4.01 of
5 respondent's Regulation I is suspended on motion of respondent.

6 DONE in Olympia, Washington this 28th day of December, 1972.

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9 WALT WOODWARD, Hearing Officer

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27 REPORT ON FORMAL
HEARING AND ORDER